

State of California

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Legislative Change No.

03-6

Bill Number: AB 967

Author: Chavez

Chapter Number: 03-268

Laws Affecting Franchise Tax Board: 17731, 17733, 19136, 23800, 23800.5, 23801, 23802, 23802.5, 23803, 23804, 23804.5, 23089, 23811

Date Filed with the Secretary of the State: September 4, 2003

SUBJECT: Conform to 2001 Fed Victims of Terrorism Relief Act/Disability Trust Credit/Estimate Tax Payment Computation/Correct Omission Of AMT/S Corp Election/Fed "S" Election Shall Apply For State

Assembly Bill 967 (Chavez), as enacted on September 3, 2003, made the following changes to California law:

Section 17731 of the Revenue and Taxation Code is amended.

The act strikes the conformity language to the federal standard deduction for disability trusts (replaced by credit in Section 17733). Makes a non-substantive technical change to the operative date of the section relating to the conformity to federal changes made by the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-34).

Section 17733 of the Revenue and Taxation Code is amended.

The act increases the credit for disability trusts from \$1 to an amount equal to the personal exemption credit for single individuals. The act, in essence, conforms to the federal Victims of Terrorism Tax Relief Act standard deduction for disability trusts provision by allowing the state equivalent personal exemption credit.

Section 19136 of the Revenue and Taxation Code is amended.

The act requires that alternative minimum tax be included in the computation of the required estimated tax payments in order to meet a safe harbor from the underpayment of estimated tax penalty. This provision is effective January 1, 2004, and operative for taxable years beginning on or after January 1, 2005.

Section 23800 of the Revenue and Taxation Code is amended.

The act removed deadwood language contained in the general conformity section for S corporations.

Section 23800.5 of the Revenue and Taxation Code is amended.

The act removed the state language prohibiting a financial S corporation from using the reserve method for bad debts (thus, conforming to the federal rule by reference). Language is added in 23802 prohibiting an S corporation from using the reserve method for bad debts. (Thus, not permitting a separate reserve method election at the state level that would trigger a state only termination of S status.)

Bureau Director

Jana Howard for Brian Putler

Date

10/31/03

Section 23801 of the Revenue and Taxation Code is amended.

The act removed the state language prohibiting a financial S corporation from using the reserve method for bad debts. Language is added in 23802 prohibiting an S corporation from using the reserve method for bad debts.

Provides that the termination of S corporation status resulting from having passive investment income exceeding 25% of gross receipts only applies at the state level if it applied at the federal level and the federal S status was terminated. This provision stops the possibility of having a different federal and state S corporation S status. A conforming amendment was made to Section 23809.

Removed language relating to perfecting S corporation status and shareholders reporting income consistent with S corporation status. This provision stops the possibility of having a different federal and state S corporation status.

Removed deadwood language and moved a subdivision.

Section 23802 of the Revenue and Taxation Code is amended.

The act added language prohibiting an S corporation from using the reserve method for bad debts.

Section 23802.5 of the Revenue and Taxation Code is amended.

The act removed transitional language relating to the determination of the shareholders tax liability.

Section 23803 of the Revenue and Taxation Code is amended.

The act removed deadwood language relating to political contributions and corrected cross-references due to other provisions of this act.

Section 23804 of the Revenue and Taxation Code is amended.

The act removed deadwood language relating to adjustments to the basis of shareholder's stock that conformed, by stand-alone language, to 1993 federal changes. Changing the conformity specified date in 1998 made this language deadwood.

Section 23804.5 of the Revenue and Taxation Code is repealed.

The act removed deadwood code section relating to certain adjustments that conformed, by stand alone language, to 1993 federal changes. Changing the conformity specified date in 1998 made this language deadwood.

Section 23809 of the Revenue and Taxation Code is amended.

Language, relating to former Internal Revenue Code Section 1374, is removed due to being deadwood. Also removed to insure the prohibition of a separate federal and state S corporation status. Section 23801 also amended to stop separate S corporation status.

Section 23811 of the Revenue and Taxation Code is amended.

The act made technical changes clarifying the definition of "subchapter C earnings and profits" used in determining the tax on investment income.

The S corporation and disability trust provisions of this act are effective and operative for taxable years beginning on or after January 1, 2004. The provision relating to AMT included in the computation of estimated tax payments is effective January 1, 2004, and operative for taxable years beginning on or after January 1, 2005.

This act will not require any reports by the department to the Legislature.